

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3372

Austin Cooper,

Appellant,

v.

Larry Norris, Director, Arkansas
Department of Corrections,

Appellee.

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* Appeal from the United States
* District Court for the
* Western District of Arkansas.
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* [UNPUBLISHED]
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Submitted: February 16, 2010
Filed: February 23, 2010

Before WOLLMAN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Austin Cooper--who is serving a life sentence on a 1993 rape conviction, see Cooper v. Arkansas, 879 S.W.2d 405, 406 (Ark. 1994)--appeals the district court's¹ judgment dismissing his 28 U.S.C. § 2254 petition as time-barred. Following careful de novo review, see Painter v. Iowa, 247 F.3d 1255, 1256 (8th Cir. 2001), we find no

¹The Honorable Harry F. Barnes, United States District Judge for the Western District of Arkansas, adopting the report and recommendations of the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas.

basis for reversal, see id. (time between completion of direct review of conviction and filing of application for state post-conviction relief counts against one-year period; when petitioner filed his state-court application for post-conviction relief, there was no federal limitations period remaining to toll, and thus federal petition was properly dismissed as time-barred); see also Baker v. Norris, 321 F.3d 769, 771-72 (8th Cir. 2003) (rejecting claim of equitable tolling supported in part by allegation that inadequate access to prison law library made it impossible to file petition on time); Flanders v. Graves, 299 F.3d 974, 976-78 (8th Cir. 2002) (to make viable claim that 28 U.S.C. § 2244(d)(1) should be equitably tolled based on actual innocence, petitioner would have to show some action or inaction on part of State that prevented him from discovering relevant facts in timely fashion, or that reasonably diligent petitioner could not have discovered facts in time to file petition within limitation period).

Accordingly, the judgment is affirmed.
